UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/500,624	02/09/2000	Dean Amburn	AMB 0101 PA	2881

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EXAMINER
DASS, HARISH T

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.		Applicant(s)
Office Action Summary	09/500,624		AMBURN, DEAN
	Examiner		Art Unit
	Harish T Dass		3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 December 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-46* is/are pending in the application.

    4a) Of the above claim(s) *1-29,34 and 36* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30-33, 35, 37-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *16* .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/17/2003 has been entered.

DETAILED ACTION

Claims 1-29, 34 and 36 are withdrawn.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 35 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in

the relevant art that the inventor(s), at the time the application was filed, had possession

of the claimed invention. Paper number 15, amendment (dated 12/17/2003) page 10

line 4 "unrelated client" is added which was not described in original specification,

Examiner, is unable to find any reference to "unrelated client" or any suggestion, in

original specification, to provide information for this limitation.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 30-33 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Lupien et al US 5,845,266 (hereinafter Lupien) in view of Kane (US 6,317,728).

Re. Claim 30, Lupien discloses receiving from a client of the network accessible

brokerage at least one computer implemented decision model (satisfaction density) for

the security, and inputting data into the decision model [Lupien – see entire document

particularly, Abs; C1 L24-L64; C4 L19-L36; C6 L29-L54], and in response to monitoring

said decision model, automatically generating a sell transaction order, and automatically

transmitting the sell transaction order to the market computer [Lupien – C6 L14-L54; C8

L5-L15, wrap the profile], and in response to monitoring said decision model,

automatically generating a buy transaction order, and automatically transmitting the buy

transaction order to a market computer [Lupien – C4 L18-L60]. Lupien, explicitly does

not disclose monitoring the decision model, and after the step of transmitting the buy

transaction, monitoring the decision model. However, Kane discloses securities trading

system for automatic day trading and monitoring the decision model, and after the step

of transmitting the buy transaction, monitoring the decision model (decision logic, where

decision logic having set of rules) [see entire document particularly, Abstract; Figures 1-

2, 4-7, 13; C1 L4 to C3 L63; C4 L66 to C5 L57; C11 L45-L60; C18 L40-L45] to monitor

and evaluating buy/sell and the rate of success and failure of each buy and sell rules

(agents). Therefore, it would been obvious to one ordinary skill in the art at the time the

applicant's invention was made to modify the disclosure of Lupien and include

monitoring the decision model, as disclosed by Kane, to monitor and assign rating

powers to buy/sell agents and improve the performance of the system.

Re. Claims 31-33, Lupien discloses canceling the sell order if the decision model

indicates a trade is undesirable [C11 L1-L22; C19 L22-L40]. Lupien, explicitly, does not

disclose wherein the step of generating a transaction order comprises after the step of

generating a sell order, and monitoring the sell order until the order is filled, and after

the step of transmitting the buy transaction order, establishing a floating stop loss (stop

loss) level (position), and floating stop loss level comprises a dynamic (continuously)

stop loss. However, Kane discloses these steps [C4 L66 to C5 L56; C1 L46 to C3 L62;

C18 L20-L55; see ref. in claim 30] to evaluate a win or a loss. It would have been

obvious at the time the invention was made to a person having ordinary skill in the art to

modify the disclosure of Lupien and include step of generating order and monitoring to limit the losses.

Re. Claims 44-46, Lupien discloses at least one client computer (terminal) in communication with the automated trading system via the network wherein the client computer is operated by a client computer user [see Ref-to-Lupien above; Fig. 1, C6 L14-L39], and at least one computer implemented decision model for deciding whether to buy or sell a security wherein the decision model comprises logic for buying and selling the security, wherein the at least one decision model enters a state comprising a buy state and a sell state [see Ref-to-Lupien above; Abs; C1 L24-L64; C4 L19-L36; C6 L29-L54], and a data input processor for receiving data from a data source and inputting the data into the decision model [see Ref-to-Lupien above; C4 L19-L28], and a computer implemented transaction approval processor for determining if a transaction to buy or sell the security is appropriate if the at least one decision model enters the buy state and/or the sell state [see Ref-to-Lupien above; Abs], and a computer implemented transaction submission processor for submitting a transaction to buy or sell the security if approved by the transaction approval processor, wherein the decision monitor continuously monitors the at least one decision model and the security is repeatedly bought and sold based on the state of the at least one decision model and the determination of the transaction approval processor [see Ref-to-Lupien above; C6 L34 to C7 L5; C14 L52-L61], and wherein the logic of the decision model is defined by the user [see Ref-to-Lupien above; Abs], and wherein the logic of the decision model

comprises a moving average [see Ref-to-Lupien above]. Lupien. Explicitly, does not

discloses a computer implemented decision monitor for monitoring the state of the at

least one decision model. However, Kane discloses this step [Abstract] to monitor the

securities and shield investor form loss and maximize the gain. Therefore, it would been

obvious to one ordinary skill in the art at the time the applicant's invention was made to

modify the disclosure of Lupien and include monitoring the decision model, as disclosed

by Kane, to monitor securities in real time, executing buy, sell, sell short and buy to

cover trades automatically.

Claims 35 and 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Lupien in view of Kane (US 6,317,728) and Buist (US 6,408,282).

Re. Claim 35, Lupien discloses receiving at least one computer implemented buy

decision model for the security, and receiving at least one computer implemented sell

decision model for the security, and providing a computer implemented monitoring

process for monitoring (observing) the decision models for a buy decision and/or a sell

decision [Lupien – Abs; C1 L24-L64; C4 L19-L65; C8 L5-L59], and providing a computer

implemented transaction approval process for determining if a transaction to buy or sell

the security is appropriate [Lupien – Abs (accommodates stock exchange rules)], and

providing a computer implemented transaction submission process for submitting a

transaction to buy or sell the security to a market computer system and monitoring the

transaction until it is completed [C8 L5-L15; C11 L1-L21], and inputting data into the buy

decision model and the sell decision model wherein the data comprises data for the

security [C7 L15-L23], and if the buy decision is reached then determining through the

transaction approval process if a buy transaction is appropriate and if so then

automatically submitting through the transaction submission process an order to buy the

security [C8 L5-L15; C11 L1-L21], and if the sell decision is reached then determining

through the transaction approval process if a sell transaction is appropriate and if so

then automatically submitting through the transaction submission process an order to

sell the security [C8 L5-L15; C11 L1-L21], and continuing inputting data into the

decision models, monitoring the decision models through the monitoring process, and

repeating the steps if the buy decision is reached or the sell decision is reached until the

process is stopped [Lupien- C14 L39-L67], and the transaction submission process, the

buy decision model, and the sell decision model [C8 L5-L15; C11 L1-L21]. Lupien,

explicitly, does not disclose monitoring the decision models through the monitoring

process for the buy decision and/or the sell decision, providing a brokerage having a

broker computer system for transacting orders to buy and sell securities, wherein the

brokerage computer system is in communication with a plurality of client computer

systems operated by a plurality of unrelated clients, receiving to the brokerage

computer system from the client computer system, providing a computer implemented

transaction approval process on the brokerage computer system for determining after

the decision to buy and/or sell the security is made, and market computer system.

However, Kane discloses a securities and/or commodities trading system (Intra-Day

trading system), based on the principles of artificial intelligence, that includes a
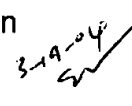
computer arrangement communicating with a securities exchange, and has inputs for

receiving buy and sell data and input communicating with the decision logic for

executing buy and sell orders in conformance with the buy/sell rules, monitoring the

decision models through the monitoring process for the buy decision and/or the sell

decision and providing a computer implemented transaction approval process on the

brokerage computer system (Fig. 1 device connected to # 20) for determining after the

decision to buy and/or sell the security is made (execution logic with an executing logic

the affirmed buy short order and transaction based on recommendations) and E-Trade

[Kane – see entire document particularly, Abstract; C1 L20 to C3 L51; C5 L1-L65; C7

L17-L67; C10 L65 to C11 L60; claim 8 (decision models = agents)] to monitor the

performance of transaction to minimize the risk. Further, Buist discloses computer-aided

trading of financial instruments, trading of securities over the Internet, collecting,

receiving, disseminating or displaying system orders, executing system orders and

providing a brokerage having a broker computer system (Fig. 1 # 42) for transacting

orders to buy and sell securities, wherein the brokerage computer system is in

communication with a plurality of client computer systems (Fig. 1 # 10) operated by a

plurality of (unrelated) clients [see entire document particularly, Figures 1 (# 10, 42, 55,

12, 44), 2-3; 21 (# 2110, 2180), 22 (# 2210, 2265), 25; C1 L56-67; C2 L1-L3, L38-L45;

C3 L1-L5, L15-16; C6 L25 to C9 L5; C31 L48-L66; Claim 1], receiving to the brokerage

computer system (Fig. 1 # 42) from the client computer system (Fig. 1 # 10) [Fig. 1 # 12

connections], market computer system [Fig. 1 # 55] to provide Internet based securities

trading. It is known that the broker's job is to monitor the market whether it is in person

or computerized monitoring tools to watch the market trend. Further, decision of trading

securities is a function of the client to set the rules for buying/selling, either he/she has

to enter the parameters into computer or explain it to his/her broker (authorize broker)

and communicate his/her decision to broker (agent) to finalize the deal. Therefore, it

would been obvious to one ordinary skill in the art at the time the applicant's invention

was made to modify the disclosure of Lupien and include monitoring the decision

models through brokerage network, and describe the system architect of on-line

(Internet or day-trading) as discloses by Kane and Buist, to provide system view and

system monitoring capability using user interface (GUI) or automatic evaluating decision

logic to monitor a portfolio of stocks in real time which can shield an investor from loss

while maximizing gain.

Re. Claim 37, Lupien discloses b. accepting one or more computer implemented

decision models for a security wherein the one or more decision models comprise logic

for deciding to buy the security and logic for deciding to sell the security [Lupien: Abs;

Fig. 1-2, 4-7, 11; C1 L24-L64; C2 L45-L65; C3 L23-L36; C4 L18 to C5 L34; C6 L L29-

L65; C8 L5-L59; C11 L12-L21; C14 L53-L61; C19 L3-L45 = Ref-to-Lupien], and d.

providing a computer implemented transaction approval process for determining if a

transaction to buy or sell the security is appropriate once the decision to buy or the

decision to sell has been made [see Ref-to-Lupien above], and e. providing a computer

implemented transaction submission process for submitting the transaction to buy or

sell the security to a market computer system and monitoring the transaction until it is

completed [Ref-to-Lupien above], and f. inputting data into the one or more decision

models, wherein the data is input into the one or more decision models until the process

is stopped [see Ref-to-Lupien above], and h. if the decision to buy or the decision to sell

is reached then determining using the transaction approval process if a buy or sell

transaction is appropriate and if so then automatically submitting using the transaction

submission process an order to buy or sell the security [see Ref-to-Lupien], and g.

iteratively repeating above steps f. and g. until the process is stopped [see Ref-to-

Lupien above; C6 L34 to C7 L5; C14 L52-L61]. Lupien, explicitly, does not disclose

providing a computer implemented monitoring process for monitoring the one or more

decision models for a decision to buy the security and/or a decision to sell the security;

monitoring the one or more decision models using the monitoring process, for the

decision to buy and/or the decision to sell; providing a network accessible brokerage

comprising a broker computer system; brokerage computer system from the client;

providing on brokerage computer system. However, Kane discloses these steps:

providing a computer implemented monitoring process for monitoring the one or more

decision models (agents) for a decision to buy the security and/or a decision to sell the

security [Kane US 6,317,728 – see entire document particularly, Abs; C1 L20 to C3 L51;

C5 L1-L65; C7 L17-L67; C10 L65 to C11 L60 = Ref-to-Kane], and monitoring the one or

more decision models using the monitoring process, for the decision to buy and/or the

decision to sell [see Ref-to-Kane above] to monitor the performance of transaction to

minimize the risk. Further, Buist discloses computer-aided trading of financial

instruments, trading of securities over the Internet, collecting, receiving, disseminating

or displaying system orders, executing system orders and a. providing a network

accessible brokerage comprising a broker computer system [figure 1, # 12, 44 & 42];

the brokerage computer system (Fig. 1 #42) from the client (Fig. 1 # 10); providing on

brokerage computer system (Fig. 1 3 42) [C1 L56-67; C2 L1-L3, L38-L45; C3 L1-L5,

L15-16; C6 L25 to C9 L5; C31 L48-L66; Claim 1] to provide Internet based securities

trading. Therefore, it would been obvious to one ordinary skill in the art at the time the

applicant's invention was made to modify the disclosure of Lupien and include

monitoring the decision models through brokerage network, as discloses by Kane and

Buist, to provide trading network and decision agent to monitor a portfolio of stocks in

real time which can shield an investor from loss while maximizing gain.

Re. Claims 38-39, Lupien discloses wherein the decision model comprises a moving

average calculation of at least a portion of the data [see Ref-to-Lupien above (average

price=aggregate average price)], and wherein the decision model comprises a weighted

data process [see Ref-to-Lupien; C2 L62-L67; C23 L1-L20].

Re. Claims 40-43 Lupien, explicitly, does not disclose after the steps of submitting an

order to buy the security and monitoring the transaction until it is completed,

automatically initiating a floating stop loss process for selling the security wherein either

the floating stop loss process or the decision model can reach a decision to sell the

security, and wherein the floating stop loss is a dynamic floating stop loss, and the step

of validating the data before the step of inputting the data into the decision model, and

further comprises logic to sell short the security and logic to buy to cover the security. However, Kane discloses these steps: after the steps of submitting an order to buy the security and monitoring the transaction until it is completed, automatically initiating a floating stop loss (stop loss order) process for selling the security wherein either the floating stop loss process or the decision model can reach a decision to sell the security, and wherein the floating stop loss is a dynamic (monitoring stocks continuously) floating stop loss [see Ref-to-Kane above; C2 L22-L34], and the step of validating the data before the step of inputting the data into the decision model [see Ref-to-Kane above; C7 L34-L67; C13 L25-L65], and further comprises logic to sell short the security and logic to buy to cover the security [see Ref-to-Kane above; C3 L20-L58]. Therefore, it would been obvious to one ordinary skill in the art at the time the applicant's invention was made to modify the disclosure of Lupien and include stop loss, validating, and selling short to protect oneself from loss and make money on the way up and more on the way down.

Response to Arguments

4.   Applicant's arguments with respect to claim30-33, 44-46, 35, 37-43 have been considered but are moot in view of the new ground(s) of rejection. Lupien et al deficiencies that examiner points out have been over come by secondary references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention and it has been held that a prior art reference must either be in the field of applicant's endeavor or be reasonably pertinent to the particular problem.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. Applicant is required under 37 CFR ' 1.111 (c) to consider the

references fully when responding to this action.

> *US 6,247,000 to Hawkins et al, Jun. 12, 2001 "Method and system for*
>
> *confirmation and settlement for financial transactions matching orders" discloses*
>
> *method and system for automatically matching financial transactions that are*
>
> *electronically traded among various user groups, and in particular to a method*
>
> *and device for automatically matching securities electronically traded among*
>
> *brokers. An overview of the financial transaction (trading) system architecture,*
>
> *broker workstation (computer), LAN network and interface.*

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Harish T Dass whose telephone number is 703-305-

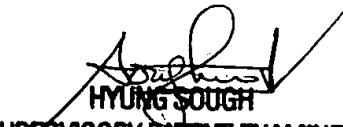4694. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hyung S Sough can be reached on 703-308-0505. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-305-7687

for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-308-

1113.

Harish T Dass *H T D*
Examiner
Art Unit 3628

March 18, 2004

HYUNG SOUGH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600